IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.10032/07
Hanif Vs. Ravindra Kumar & Ors.

Date of order : 6/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Sanjay Sharma for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 16.11.2007 whereby the application of Rajendra Kumar filed under Order 1 Rule 10 for his impleadment as party-respondent to the injunction suit has been allowed.

Learned counsel for the petitioner has argued that plaintiff in the suit has merely prayed for an injunction against Ravindra Kumar and Rakesh Kumar to the effect that they should not further alienate the property in question and such

an injunction would be obviously prospective in nature. If at all the property in question has been sold out by Ravindra Kumar by a sale deed in 1997 to Rajendra Kumar, he would have necessary party because according to plaintiff such a sale is void and no relief as such against Rajendra Kumar has been prayed for by the plaintiff.

Having heard the learned counsel for the petitioner and perused the impugned order, especially the observations made by the Court in para 6 thereof, I find that if the property which is subject matter, which has been purchased by Rajendra Kumar from Ravindra Kumar and injunction in regard to said property was prayed for by the petitioner against the predecessor-in-title of Rajendra Kumar, therefore, no exception can be taken for impleadment of Rajendra Kumar merely because the sale

deed was executed anterior to the date of filing of the plaint. The plaintiff at this stage cannot be permitted to proceed on the assumption that the sale deed was void. This would be a question to be determined by the trial court in the suit on the basis of evidence whether or not Ravindra Kumar had any right to execute the sale deed in favour of Rajendra Kumar.

I therefore do not find any error in the impugned order.

The writ petition is therefore dismissed.

(MOHAMMAD RAFIQ), J.

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